

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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In the Matter of the Complaint of  
KEN W. YANICKY

Petitioner, 11-CV-6287

**ORDER RESTRAINING SUIT,  
APPROVING PETITIONER'S  
AD INTERIM SECURITY AND  
DIRECTING ISSUE OF  
NOTICE AND THE FILING  
OF CLAIMS**

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A Complaint having been filed herein on June 10, 2011, by the above-named Petitioner as owner of a 2007 22' Hydra Sport motor vessel bearing HIN# GHYVPA19J607 (hereinafter the "Vessel"), for Exoneration from or Limitation of Liability, pursuant to 46 U.S.C. §§ 30501 et seq., and Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure concerning any loss, injury, damage and/or expense arising from the death of Michael Steger on the navigable waters of Lake Ontario, off of Olcott, Niagara County, New York, as more fully described in the Complaint;

**AND** the Complaint having stated that the value of the Petitioner's interest in the Vessel did not exceed the sum of \$64,541.40 on the date of the incident;

**AND** the Petitioner has filed with the Court a security for the benefit of claimants, pursuant to an *Ad Interim* Security dated June

7, 2011 with surety, equal to the amount or value of Petitioner's interest in the Vessel, with interest at six percent (6%) per annum from the date hereof, executed by Consolidated Marine Services, Inc., as surety:

**NOW**, on motion of RUBIN, FIORELLA & FRIEDMAN LLP, attorneys for Petitioner, it is hereby

**ORDERED** that the above-described *Ad Interim* Security, in the sum of \$64,541.40 with interest as aforesaid, filed by the Petitioner for the benefit of claimants as security for the Petitioner's interest in the Vessel, be and is hereby approved; and

**IT IS FURTHER ORDERED** that the Court, upon motion, shall cause appraisalment of the value of the Vessel and may thereupon order said security increased or reduced if it finds the amount thereof insufficient or excessive; and

**IT IS FURTHER ORDERED** that any claimant in these proceedings may express, upon good cause shown and by written notice filed with the Court, and served upon all parties of record, its dissatisfaction with Consolidated Marine Services, Inc., as surety. In the event of such notice, Petitioner shall within thirty (30) days of the entry of an order by the Court concerning the surety, cause security to be posted in the form provided by Supplemental Rule F(1) of the Federal Rules of Civil Procedure and satisfactory to this Court, failing which the injunction entered concurrently herewith will be vacated as to all claimants, and the Court will

make such further orders as the justice of the cause may require;  
and

**IT IS FURTHER ORDERED** that **the Clerk of the Court shall issue notice, by signing and filing the Notice attached hereto**, which Notice will then be sent by Petitioner to all persons asserting claims or suits with respect to which the Complaint seeks Exoneration from or Limitation of Liability admonishing them to file their respective claims with the Clerk of this Court, in writing, and to serve on the attorneys for the Petitioner a copy thereof, **on or before August 31, 2011**, or be defaulted; that if any claimant desires to contest either the right to Exoneration from or the right to Limitation of Liability, such claimant shall file and serve on the attorneys for the Petitioner an Answer to the Complaint on or before **August 31, 2011**, unless the Claim has included an Answer to the Complaint, so designated, or be defaulted; and

**IT IS FURTHER ORDERED** that **Petitioner shall publish Notice**, in the *Democrat and Chronicle*, a newspaper with a general circulation in Monroe County, once a week for four (4) weeks before the return date of said Notice, as provided by the aforesaid Supplemental Admiralty Rule F; and copies of said Notice shall be mailed by Petitioner in accordance with the Rule to every person known to have any claim against the Vessel or Petitioner, or to its attorney; and

**IT IS FURTHER ORDERED** that the further prosecution of any and all actions, suits and proceedings already commenced and the commencement or prosecution hereafter of any and all suits, actions, or proceedings of any nature and description whatsoever, in any Court of any jurisdiction, or otherwise, against the Petitioner, the Vessel, and/or insurer; by the taking of any steps and the making of any motion in such actions, suits or proceedings, except in this action to recover damages for or in respect to the aforesaid incident alleged in the Complaint, be and they hereby are restrained, stayed and enjoined until the hearing and determination of this action, and all warrants of arrest and/or attachment issued or sought in such other suits, actions or legal proceedings be and the same are hereby dissolved and further warrants of arrest and/or attachment are hereby prohibited; and

**IT IS FURTHER ORDERED** that service of this Order as a restraining order be made through the Post Office by mailing a conformed copy thereof to the person or persons to be restrained, or to their respective attorneys.

**ALL OF THE ABOVE IS SO ORDERED.**

s/ Michael A. Telesca  
MICHAEL A. TELESKA  
United States District Judge

Dated: Rochester, New York  
June 23, 2011